

Attorney's Docket 081468-0308294  
Client Reference: P-0300.011-US

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re PATENT APPLICATION of:  
HELMUS JOSEPHUS BOX

Confirmation Number: 8581

Application No.: 10/785,046

Group Art Unit: 2851

Filed: February 25, 2004

Examiner: Kim, Peter B.

For: LITHOGRAPHIC APPARATUS, DEVICE MANUFACTURING METHOD, AND METHOD  
OF MANUFACTURING A COMPONENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

AMENDMENT/RESPONSE TRANSMITTAL

Transmitted herewith is an amendment/response for this application.

FEES

The fee for claims and extension of time (37 C.F.R. 1.16 and 1.17) has been calculated as shown below:

	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE	ADDIT. FEE
TOTAL	20	— 20	= 0	x \$ 50.00	= \$ 0.00
INDEP.	4	— 4	= 0	x \$ 200.00	= \$ 0.00
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM			+	\$ 360.00	= \$ 0.00
TOTAL ADDITIONAL CLAIM FEE					\$ 0.00
GRAND TOTAL					\$ 0.00

FEE PAYMENT

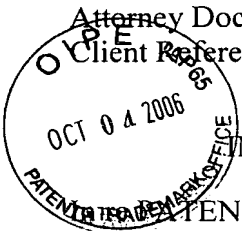
Authorization is hereby made to charge the amount of \$0.00 to Deposit Account No. 033975. Charge any additional fees required by this paper or credit any overpayment in the manner authorized above. A duplicate of this paper is attached.

Date: October 4, 2006

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October 4, 2006

RESPONSE TO RESTRICTION REQUIREMENT

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Restriction Requirement dated September 5, 2006, Applicant elects **with traverse** Group I, claims 1-17 and 20, for prosecution in the above-identified application.

Firstly, Applicant cannot locate class 35, subclass 820 ascribed to Group I. Accordingly, the restriction requirement is improper as Applicant cannot discern Examiner's choice to classify Group I separately from Group II.

Further, MPEP § 808.02 states: "... the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required." (Underlining emphasis added.) Furthermore, MPEP § 803 states: "If the search and examination of all the claims in an application can be made without serious burden, the examiner must examine them on the merits, even though they include claims to independent or distinct inventions." (Underlining emphasis added.) It is respectfully submitted that it is clear from these MPEP sections that it is PTO policy that the entire

application must be searched and examined, regardless of the presence of independent or distinct inventions, if no serious burden exists. It is respectfully submitted that the Examiner has not established that a serious burden exists per MPEP § 808.02 as the entire application can be searched and examined without a serious burden as it already has been.

Specifically, the Examiner has already searched and examined the entire application. MPEP § 811 states: "37 CFR 1.142(a), second sentence, indicates that a restriction requirement 'will normally be made before any action upon the merits; however, it may be made at any time before final action.' This means the examiner should make a proper requirement as early as possible in the prosecution, in the first action if possible, otherwise, as soon as the need for a proper requirement develops. Before making a restriction requirement after the first action on the merits, the examiner will consider whether there will be a serious burden if restriction is not required."

Applicant originally presented claims 1-19, of which claims 1-17 have been divided into Group I and claims 18 and 19 have been divided into Group II. The Examiner has already searched and examined claims 1-19. **In fact, the Examiner has at least examined them four times, in the February 10, 2005, August 11, 2005, February 15, 2006 and May 25, 2006 Office Actions, and hopefully performed an equal number of searches.** Presumably, the Examiner followed the directives of MPEP Chapter 900, including the sections discussed above, in formulating and conducting the search. If the Examiner did not follow those directives, Applicant should not now be disadvantaged thereby and have the time to prosecute its claims extended.

Therefore, it is respectfully submitted that criteria for a proper restriction requirement has not been satisfied. Accordingly, the requirement is improper and must be withdrawn.

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Client/Matter: 081468-0308294

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975 to order number 081468-0308294. The Commissioner for Patents is also authorized to credit any overpayments to the above-referenced Deposit Account.

Respectfully submitted,

PILLSBURY WINTHROP SHAW PITTMAN LLP



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